

9-44-06

Change in zoning from R-1 and R-4 single-family residential to OR-3 office-residential and a Conditional Use Permit for ambulatory care center, urgent care center and medical offices on property located at 4904, 4910 and 5000 Chamberlain Lane and an adjacent lot with no address, known as W0006/Lot 99 (Tax Block W006, Lot Numbers 74, 99, 71 and 72), containing 19.40 acres and being in Louisville Metro.

Project Name: Jewish Hospital/St. Mary's Healthcare  
Ambulatory Care Services

Owner(s): JH Properties, Inc.,  
J. Demo Johns, Ima L. Johns  
4910 Chamberlain Lane  
Louisville, KY 40222

Kuiza L. Kim  
2639 Wood Haven  
Owensboro, KY 42303

Chamberlain 5000.  
Kevin M. Cunningham  
2133 Frankfort Avenue  
Louisville, KY 40206

Applicant: Jewish Hospital & St. Mary's  
Healthcare, Inc.  
200 Abraham Flexner Way  
Louisville, KY 40202

Attorney: Glenn Price  
400 West Market Street, Floor 32  
Louisville, KY 40202-3363

Engineer/Designer: Phil Bills  
BTM Engineering, Inc.  
3001 Taylor Springs Drive  
Louisville, KY 40220

Existing Use: Residential

Proposed Use: Medical office, ambulatory care center  
and a future phase that includes a  
hospital

Form District:	Regional Center
Project Size/Area:	19.40 acres
Jurisdiction:	Louisville Metro
Council District:	16 – Kelly Downard
<b>Staff Case Manager:</b>	<b>Kristen Millwood, Planner II</b>
<b>(presented by: Beth Allen, Planning Supervisor)</b>	

Notice of this public hearing appeared in **The Courier Journal** on March 7, 2007, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**The following spoke in favor of this request:**

Glenn Price  
400 W. Market  
Louisville, KY 40002

Phil Bills  
3001 Taylor Springs Drive  
Louisville, KY 40222

Dave Curth  
607 West Main St., Suite 400  
Louisville, KY 40202

**The following spoke in opposition:**

Barbara Kelly  
6009 Mint Spring Branch Road  
Louisville, KY 40059

Robert Bordona  
7811 Wolf Pen Branch Road  
Prospect, KY 40059

Stephen Porter  
2406 Tucker Station Road  
Louisville, KY 40299

**Interested Parties:**

None

**Agency Personnel:**

Paula Wahl with Planning & Design Transportation

**AGENCY TESTIMONY:**

Beth Allen presented the case, showing a Power Point presentation of Phase I of the site with accommodations for Phase II. A detailed plan and conditional use permit are requested at present only for Phase I. When Phase II becomes active, approval of a revised detail district development plan will be needed along with another CUP, a certificate of need and revised traffic and air quality studies.

Elevation renderings have been reviewed against the building design standards of the Land Development Code. The renderings show the design elements have been met as required. The buildings are consistent with the height and mass against structures allowed within the Regional Center Form District.

The future parking area was shown on the presentation. An open grass area and a picnic area will serve until such time as the future parking area is needed.

As required by Transportation and Planning and Air Pollution Control district staff the applicant prepared an extensive traffic and air quality analysis. The analysis indicates some operational deficiencies; however, these deficiencies are currently existing. The applicant has agreed to contribute an equitable amount of monies to the KY22/Brownsboro Rd. area road improvement projects currently underway by Metro and KTC.

As requested by the Commission the applicant has agreed to provide landscaping around the detention basin. A concept landscape plan has been submitted for the record. Staff has added binding element number 12C addressing landscaping issues.

The applicant has agreed to install mechanisms for the separation of oil and water and has supplied a binding element. Binding element number 5, included in the staff report, supports this.

The air quality assessment concludes that the Jewish Hospital Center Northeast will not create an adverse air quality effect for Phase 1. Phase II will require an updated air quality analysis.

Staff recommends approval of the change in zoning, approval of a detailed development plan for Phase I and approval of the conditional use permit for Phase I.

Paula Wahl with Transportation said the existing width of Chamberlain Lane is adequate. She discussed the storage and the traffic flow issues.

**SUMMARY OF TESTIMONY OF PROPONENTS:**

Glenn Price applicant's representative presented his case. A water quality measure presented will protect the water of the adjacent streams network of Wolfe Creek Springs Branch. He discussed oil water separators being proposed and designed by BTM Engineers. A second binding element the applicant proposed has to do with the Cobblestone Neighborhood. A Power Point

presentation showed the development site and plan. Mr. Price asked that the "book of evidence" be submitted into the public hearing records of this hearing.

Phil Bills with BTM Engineering showed the development plan and explained access roads and showed parking areas which will remain as green space. He also showed the landscaping concept plan with regards to the detention basin. He discussed the signage and locations. He pointed out possible locations for the oil water separators.

Dave Curth architect for the project showed a Power Point Presentation describing some of the architectural design features and concepts for the building.

#### **SUMMARY OF TESTIMONY OF OPPONENTS:**

Steve Porter represents the Wolf Pen Preservation Association Neighborhood Group. He passed around some proposed binding elements and explained what was being proposed. Height, signage and light are requested to be added as binding elements. The traffic conditions are an issue and a concern. He pointed out that there are failed intersections in the area. He is concerned about the precedent being set with regard to traffic.

Bob Bordona a Wolf Pen Resident, is pleased with having Jewish Hospital come to the area. His concern is the findings stated in an earlier staff report with regards to the traffic and how the traffic from the hospital will add to existing problems.

Barbara Kelly, a Prospect neighbor expressed her concerns regarding traffic. She quoted lines from the Courier Journal from January. She made a suggestion for a possible solution of a storage lane, claiming this will alleviate some traffic.

#### **SUMMARY OF TESTIMONY OF INTERESTED PARTIES:**

No one spoke.

#### **REBUTTAL:**

Glenn Price said that this was the first time they knew the opposition had traffic concerns. He agreed there are failing intersections in the area. He said the use of the facility is not a peak hour use facility. He discussed the binding element proposals suggested by the opponents and what was acceptable and what was not. He referred to some of the binding elements which should be considered when Phase II is proposed.

An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the cd of the March 15, 2007 proceedings.

In a business session subsequent to the public hearing on this request, the Commission took the following action.

## **ZONING**

On a motion by Commissioner Blake, the following resolution was unanimously adopted:

**WHEREAS, The Planning Commission Finds That** the proposal complies with KRS 100.213 because it agrees with the adopted Comprehensive Plan for Louisville and Jefferson County, Kentucky (sometimes known as “Cornerstone 2020”), and all applicable Goals, Objectives, Guidelines and Policies of the Comprehensive Plan; as further set forth in these Findings; and

**WHEREAS, The Planning Commission Further Finds That** the proposal conforms to Community Form Guideline 1 and all applicable Policies adopted thereunder, including Policy 1.B.6, and Regional Marketplace Center Goal E1, Objective E1.1, Community Design Goal E2, Objectives E2.1 and E2.2, E2.3, E2.4, and E2.5, and Land Use Goal E3, Objectives E3.2, E3.3 and E3.4, Site Design Goal E4, and Objectives E4.1, E4.2, E4.3 and E4.4, and Mobility Strategy Goal A2 and Objective A2.2 because the site is located in the Regional Center Form District, because the existing Regional Form District includes Old Brownsboro Crossings and The Summit as well as the properties comprising the subject site and the proposed medical campus is consistent with the mixture of uses advocated in a Regional Center Form District; because the site will be connected to Brownsboro Road, an arterial roadway, via Old Brownsboro Crossings and Chamberlain Lane, and is connected to Old Brownsboro Crossings via Angies Way, a public street, and has two access points at Angies Way at locations designated by the General District Development Plan for Old Brownsboro Crossings; because the proposed location of the medical campus is compatible with the Neighborhood Form District on the east side of Chamberlain Lane at Cobblestone since it has been made compatible through the use of appropriate landscaping along the Chamberlain Lane frontage of the site; because the building is set back from the Chamberlain Lane and is at an appropriate scale, being not more than 40-feet in height the use is additional appropriate at its location; because the use of the site as an institutional, non-commercial use is an appropriate transition to the adjacent residential area in the Neighborhood Form District; because the site is located near Interstate 71 to the north and has close access to Interstate 265 (the “Snyder Freeway”); because TARC Routes 49/55 traverses Brownsboro Road to Old Brownsboro Crossings to Angies Way immediately adjacent to the site, and then southwardly onto Chamberlain Lane; because sidewalks exist along the Chamberlain Lane and Angies Way site frontages; because an open space area will be preserved as green space at the southwest corner of the site during Phase 1; because thirty-foot buffer strips will be situated at the Chamberlain Lane and Angies Way frontages; because the use of the site for medical campus contributes to the desirable mixture of land uses in the Regional Center Form District; because this use at the perimeter of the Regional Center Form District is a medium intensity

use which is appropriate at this location; because the scale, building height, setback, lot dimension, parking and building design are appropriate for the site, the Regional Center Form District, the location and the adjacent residential uses; because no variances are required as all setbacks are observed; because the proposal conforms to the off-street parking regulations of the Land Development Code; and because the proposal will observe Land Development Code requirements pertaining to lighting; and

**WHEREAS, The Planning Commission Further Finds That** the proposal conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 3.1, 3.2, 3.5, 3.6, 3.7, 3.8, 3.9, 3.213.22, 3.23, 3.24, and 3.28 because the structures within the medical campus will be consistent with the size and scale of other development within the Regional Form District; because the proposed building is consistent with existing building heights, scale and mass existing in Old Brownsboro Crossings; because detailed architectural renderings have been introduced into the record of this Application demonstrating that the building design is compatible with nearby development – both within the Regional Center Form District and in the adjacent Neighborhood Form District; because the development will not be the source of nuisances related to odor, excessive lighting, noise, or adverse visual impact due to the land use itself, or from vehicular headlights or otherwise; because a letter from Tom Pinto, Technical Coordinator of the Air Pollution Control District dated March 7, 2007 provides that the project will not cause an exceedance of National Ambient Air Quality Standards for carbon monoxide; because the development will have substantial buffering and/or mounding along its Chamberlain Lane frontage which will serve as an appropriate transition to the residential uses to the east of Chamberlain Lane; and because all setback requirements have been respected; and

**WHEREAS, The Planning Commission Further Finds That** the proposal conforms to Open Space Guideline 4 and all applicable Policies adopted thereunder, including Policies 4.1, 4.2, 4.4, and 4.5 because appropriate open space has been provided in accordance with the recommendations of the Comprehensive Plan and Land Development Code, where applicable, and open space will be consistent with the Regional Center pattern of development; and because natural features will be integrated into the development to the extent practicable; and

**WHEREAS, The Planning Commission Further Finds That** the proposal conforms to Natural Resources and Scenic and Historic Resources Guideline 5 and all applicable Policies adopted thereunder, including Policies 5.1, 5.2 and 5.6 because the development will provide as much "green" space as possible on site and will keep impervious surface area to a minimum, consistent with providing superior facilities for patient care; because there are no known historic resources on the subject site nor is the development proposed to be located in an area recognized as having exceptional historic or architectural value; and

because soils on site will be protected by strict observance of Metropolitan Sewer District standards regarding soil and erosion control; and

**WHEREAS, The Planning Commission Further Finds That** the proposal conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policies 7.1, 7.2, 7.3, and 7.13, and Transportation Investment Goal G1, and Objective G1.2 because the development will not significantly decrease existing levels of service in the adjacent transportation network; because the development is adjacent to an existing transit line and will be transit-supportive; because cross over access and parking easements will be provided for among the phases of the development; and because the Applicant will make a pro rata contribution to a fund for area transportation improvements to offset the impact of vehicular movements to and from the site; and because the existing width of Chamberlain Lane is adequate to accommodate the proposed left turn storage lane into the development; because the proposed land use is appropriately situated in a Regional Center Form District at this location at the confluence of two interstates and an arterial roadway; because trip generation projections in the BTM Engineering study show that levels of service will not be substantially affected; because many of the services to be provided at the medical center will be provided by appointment; and

**WHEREAS, The Planning Commission Further Finds That** the proposal conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policies 9.1 and 9.4 because pedestrian connections between the principal buildings in Phases 1 and 2 will be provided; because sidewalks along the street frontages of Chamberlain Lane and Angie's Way will be provided; because the development will have adequate space for transit vehicles, transit stops and will have bicycle storage facilities located at appropriate locations throughout the development; and

**WHEREAS, The Planning Commission Further Finds That** the proposal conforms to Flooding and Stormwater Guideline 10 and all applicable Policies adopted thereunder, including Policies 10.1, 10.5, and 10.11 because adequate on-site detention facilities will be provided in accordance with Metropolitan Sewer District ("MSD") requirements in order to mitigate peak stormwater runoff rates; because MSD watershed plans will be used as a basis for detention and computations have been based on a fully developed watershed; because although there is an intermittent stream on the development site, but there are no solid blueline streams located thereon; and

**WHEREAS, The Planning Commission Further Finds That** the proposal conforms to Water Quality Guideline 11 and all applicable Policies adopted thereunder, including Policy 11.4 because MSD's Soil and Erosion Control requirements will be strictly observed to protect the stream corridor from sediments and pollution; and because one or more oil/water separation units will

be located on site to reduce impacts to water quality from surface water runoff; and

**WHEREAS, The Planning Commission Further Finds That** the proposal conforms to Air Quality Guideline 12 and all applicable Policies adopted thereunder, including Policies 12.1 and 12.2, and Environment and Mobility Goal C1, and Objective C1.1 because a letter from Tom Pinto, Technical Coordinator of the Air Pollution Control District dated March 7, 2007 provides that the project “will not have an adverse air quality impact for the one or eight-hour National Ambient Air Quality Standard (NAAQS) for carbon monoxide;” and

**WHEREAS, The Planning Commission Further Finds That** the proposal conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder, including Policy 13.5 because the development will observe the tree canopy requirements of Article 10 of the Land Development Code; and

**WHEREAS, The Planning Commission Further Finds That** the proposal conforms to Infrastructure Guideline 14 and all applicable Policies adopted thereunder, including Policies 14.2, 14.3, 14.4, 14.6, and 14.7 because the site is served by an adequate supply of potable water and water for firefighting purposes supplied by the Louisville Water Company; because sewage disposal will be handled via Metropolitan Sewer District facilities; and because utilities will be located underground wherever possible and will be located in common easements provided the utilities have directed the easements to be so situated; and

**WHEREAS, The Planning Commission Further Finds That** the proposal conforms to Community Facilities Guideline 15 and all applicable Policies adopted thereunder, including Policy 15.9 because the site will be adequately served by firefighting facilities provided by the Worthington Fire Protection District; and

**WHEREAS, The Planning Commission Further Finds That** the proposal conforms to all other applicable Goals, Objectives, Guidelines and Policies of the Comprehensive Plan; **NOW, THEREFORE, BE IT:**

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of the Louisville/Jefferson County Metro Government that the change in zoning from R-1 and R-4 Single-family residential to OR-3, Office-Residential on property described in the attached legal description be unanimously **APPROVED**.

**The vote was as follows:**

Commissioner Carlson recused himself.



**YES: Commissioners Hamilton, Abstain, Storm, Ernst, Blake, Queenan, Wells-Hatfield and Howard.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioner Carlson recused himself.**

**ABSTAINING: No one.**

### **CONDITIONAL USE PERMIT**

On a motion by Commissioner Blake, the following resolution was unanimously adopted:

To approve the Conditional Use Permit shall be granted because the set-back requirement has been provided. All buildings will be at least 30 ft from the property line which meets the set-back requirement. The applicant has provided a Certificate of Need for the State of Kentucky as required for Phase I. The applicant has proposed a minimum sign to meet the Certificate of Need of 10 ft tall and maximum 80 ft in a maximum area.

**RESOLVED**, that the Louisville and Jefferson County Planning Commission does hereby **RECOMMEND** to approve the Conditional Use Permit on property described in the attached legal description.

**The vote was as follows:**

**YES: Commissioners Hamilton, Abstain, Storm, Ernst, Blake, Queenan, Wells-Hatfield and Howard.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE: Commissioner Carlson recused himself.**

**ABSTAINING: No one.**

### **DEVELOPMENT PLAN**

In reference to additional binding elements provided by the opponents, Theresa Senninger, Legal Council for Planning & Design Services said that typically binding elements are not added that are already part of the development code, because they are more difficult to enforce.

Commissioner Ernst said they would disregard the request for binding elements by the opponents and assume they are covered in the development plan itself.

**On a motion by Commissioner Blake, the following resolution was unanimously adopted:**

**RESOLVED**, That the Louisville Metro Planning Commission does hereby unanimously **APPROVE** the district development plan **SUBJECT** to the following binding elements (Included are binding elements identified under tab 15 from the exhibit book from the applicant):

**Proposed Binding Elements – Docket #9-44-06CVW (unique to this case)**

1. Developer shall improve Chamberlain Lane and entrance intersection to provide a north-bound left-turn storage lane and a south-bound right-turn lane per Metro Public Works requirements. Sidewalks shall be placed as required to be a minimum of 6' in width if it is integral with the curb. Developer shall be responsible for utility relocations, final surface overlay, and striping associated with required road improvements. Sidewalk shall use Old Louisville Mix along Chamberlain Lane.
2. Access provided from Angie's Way permitted by note #12 on Plat Book 50, Page 65. "Future access shall be provided from Angie's Way across lot 16 to the Kim property on the northerly side of lot 16". Access easements shall be recorded prior to construction permit approval.
3. Developer shall contribute \$1.50 x total building square footage to the KY 22/Brownsboro Road area road improvement project. Contribution shall be required to be paid to Metro Public Works prior to their construction approval for each building.
4. Phase 1 as labeled and shown in bold type on this plan is the only phase of this project currently under development plan review and seeking development plan approval. Phase 2 as shown in light print will be the subject of another development plan application to be submitted at a future date along with an updated traffic and air quality study per Metro requirements.
5. One or more oil/water separation units shall be installed as part of the stormwater drainage system on site in order to reduce water quality impacts from surface water flows. The unit(s) shall be serviced by the Applicant according to the manufacturer's specifications for maintenance. The Metropolitan Sewer District shall have no responsibility to service or maintain the units(s).
6. Upon written request of either or both of the two Cobblestone homeowners associations (Cobblestone Council of Co-Owners and/or Cobblestone Estates Homeowners Association), Applicant shall contribute a sum not to exceed ten thousand dollars (\$10,000) in the aggregate, for the purpose of reducing or preventing non-resident traffic on Glasgow Boulevard.

**Proposed Standard Binding Elements - Docket #9-44-06CVW**

7. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the

Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

8. The development shall not exceed 105,000 square feet of gross floor area.
9. Signs shall be in accordance with Chapter 8.
10. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
11. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
12. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. A minor subdivision plat shall be recorded creating the lot lines and sidewalk easement along Chamberlain Lane as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Said plan shall include landscaping that is substantially the same as that shown on the concept landscape plan submitted at the March 15, 2007 Planning Commission public hearing. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

13. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
14. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
15. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
16. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 15, 2007 Planning Commission meeting.
17. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.